

FILED

JUN 01 2006

ADMINISTRATIVE HEARING
COMMISSION

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

**W. DALE FINKE, Director
Department of Insurance
State of Missouri,**

Petitioner,

v.

DAVID W. LaFEVERS,

Respondent.

**Serve at:
1556 Imperial Center
West Plains, MO 65775
(417) 257-7233**

CASE NO. 06-0523219C

COMPLAINT

W. Dale Finke, Director of the Missouri Department of Insurance, for his Complaint against Respondent, David W. LaFevers, states as follows:

1. Petitioner is the Director of the Missouri Department of Insurance ("the Director") whose duties, pursuant to Chapters 374 and 375 of the Revised Statutes of Missouri, include the supervision and regulation of licensed insurance producers.

2. At all times mentioned herein, Respondent was a licensed insurance producer (license No. PR219947) in the State of Missouri. Respondent's insurance license expires on December 5, 2007.

3. This Commission has jurisdiction over this Complaint pursuant to § 621.045 RSMo (2000).

COUNT I

4. Petitioner re-alleges and expressly incorporates the allegations in paragraphs 1–3.

5. Respondent has improperly withheld, misappropriated, or converted moneys or properties received in the course of doing insurance business, a ground for discipline under § 375.141.1(4), RSMo (Cum. Supp. 2005).

6. The facts are as follows:

a. On December 13, 2005, the Missouri Department of Insurance (“the Department”) received a complaint from Brian White (DBA White Electrical). Brian White (White) alleged that on June 17, 2005, producer David W. LaFevers (LaFevers), collected a premium payment in the amount of \$12,196.01 for workers compensation insurance. White indicated that on August 18, 2005, he paid LaFevers an additional premium payment of \$4,613.61 for general liability insurance. White subsequently discovered he did not have a valid policy of insurance in exchange for the premiums he paid to LaFevers.

b. LaFevers, however, did supply White with proof of insurance cards for White’s company vehicles. These cards indicated that White had insurance on his company vehicles with National Liability and Fire Insurance Co. A Department investigation revealed that National Liability and Fire Insurance Co. did not have a policy in force at the time LaFevers represented to White that White had insurance coverage. Additionally, National Liability and Fire Insurance Co. stated that at no point in time did they ever have a policy of insurance in force for White.

c. LaFevers’ banking records were subpoenaed by the Department and revealed that LaFevers deposited White’s check for \$12,196.01 on June 20, 2005. Furthermore, the bank records show that on June 20, 2005, LaFevers’ bank account balance was below

\$12,196.01. The bank records also indicate no check was ever forwarded to any insurance company to obtain insurance for White.

d. On January 10, 2006, LaFevers deposited a second check from White for \$4,613.61. LaFevers' bank records show that on January 10, 2006, his account balance was below \$4,613.61 and no payment was ever forwarded to any insurance company to purchase insurance for White.

7. As a result, sufficient grounds exist for disciplining Respondent's insurance license pursuant to § 375.141.1(4), RSMo (Cum. Supp. 2005).

COUNT II

8. Petitioner re-alleges and expressly incorporates the allegations in paragraphs 1–3.

9. Respondent has intentionally misrepresented the terms of an actual or proposed insurance contract or application for insurance, a ground for discipline under § 375.141.1(5) RSMo (Cum. Supp. 2005).

10. The facts are as follows:

a. On June 13, 2005, the Department received a complaint from Amanda Riley (Riley). Riley alleged LaFevers misrepresented the benefits of a health plan he sold to her employer. Riley stated that she was told by LaFevers that she qualified for coverage for a specific healthcare provider network (network). Riley, relying on the representations of LaFevers regarding her eligibility to use network facilities, obtained treatment at a network facility. Riley, however, soon thereafter discovered that her visits were not covered by the plan as promised by LaFevers. Riley was required to personally pay \$1,403 to cover the cost of the visits to the network facility.

b. On June 27, 2005, the Department discovered that LaFevers never submitted an application to the specific network as represented to Riley and her employer, and as a result the network was not included in the plan LaFevers sold to Riley and her employer.

c. The Department found that LaFevers had instead submitted a form he had independently created. No one at the healthcare network, however, knew what purpose the form was designed to serve.

11. As a result, sufficient grounds exist for disciplining Respondent's insurance license pursuant to § 375.141.1(5), RSMo (Cum. Supp. 2005)

COUNT III

12. Petitioner re-alleges and expressly incorporates the allegations in paragraphs 1–3.

13. Respondent has used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, a ground for discipline under § 375.141.1(8) RSMo (Cum. Supp. 2005).

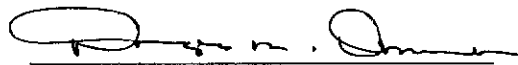
14. The facts are as follows:

a. Petitioner re-alleges and expressly incorporates the allegations in paragraph 10.

15. As a result, sufficient grounds exist for disciplining Respondent's insurance producer license pursuant to § 375.141.1(8) RSMo (Cum. Supp. 2005).

WHEREAS, based on the foregoing, Petitioner respectfully requests that the Commission make findings of facts and conclusions of law stating that Petitioner has established cause to discipline the insurance license of Respondent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Douglas M. Ommen", is written over a horizontal line.

Douglas M. Ommen
Missouri Bar Number 35301
Department of Insurance
301 West High Street, Room 530
Jefferson City, Missouri 65101
(573) 751-2619

ATTORNEY FOR PETITIONER
W. Dale Finke, Director
Missouri Department of Insurance